REMARKS

The present communication responds to the Office Action dated August 8, 2007. In the Action, the Examiner rejected claims 1-36. The rejections are traversed for at least the reasons articulated below, and reconsideration is requested.

Rejections Under 35 U.S.C. § 102

Independent Claims 1 and 14 are not Anticipated by D'urso

Claims 1 and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,741,215 ("D'urso"). This rejection is traversed at least for the following reasons.

Each of independent claims 1 and 14 include a limitation regarding a process for evaluating donor bone comprising, in part, assessing the suitability of a donor bone for implant preparation. More specifically, claim 1 recites a process for evaluating donor bone suitable for implant preparation comprising, in part, "assessing the bone's suitability for fabrication into a given implant configuration based on the measured parameters," and claim 14 recites a process for evaluating donor bone suitable for implant preparation comprising, in part, "determining the bone's suitability for implant geometries."

D'urso does not disclose each of the limitations of claims 1 and 14. Particularly, D'urso does not disclose "assessing [a] donor bone's suitability for fabrication into a given implant configuration based on the measured parameters," as recited in claim 1, or "determining [a] donor bone's suitability for implant geometries," as recited in claim 14.

D'urso discloses a method for the construction of polymeric prosthetic implants. The method involves, first, scanning the cranial structure of a patient to obtain tomography data. *D'urso, col. 7, ll. 19-21.* Manipulation of this tomography data may then, in conjunction with the use of conventional computer software, produce a three dimensional coordinate data set structure which represents a cranio-plastic implant. *D'urso, col. 7, l. 24 – col. 8, l. 3.* Finally, the data set is employed with a sterolithiographic apparatus to construct a model of an implantable prosthesis from an acrylic polymer. *D'urso, col. 8, ll. 4-6.* Nowhere does D'urso disclose donor bone. More particularly, nowhere does D'urso disclose "assessing [a] donor bone's suitability for fabrication into a given implant configuration based on the measured

parameters," as recited in claim 1, nor "determining [a] donor bone's suitability for implant geometries," as recited in claim 14.

Accordingly, the applicants respectfully submit that D'urso does not disclose each of the elements of claims 1 and 14. Reconsideration and withdrawal of the rejections are requested.

Independent Claims 1, 14, and 32 are not Anticipated by White

Claims 1-14 and 32 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,436,684 ("White"). This rejection is traversed at least for the following reasons.

As discussed above, claim 1 recites a process for evaluating donor bone suitable for implant preparation comprising, in part, "assessing [a] donor bone's suitability for fabrication into a given implant configuration based on the measured parameters," and claim 14 recites a process for evaluating donor bone suitable for implant preparation comprising, in part, "determining [a] donor bone's suitability for implant geometries."

White does not disclose each of the limitations of claims 1 and 14. White discloses a method of constructing three dimensional corporeal models of structures internal to bodies. *White, col. 1, ll. 7-9.* The method of White commences with the operation of a computerized tomographic device to derive three dimensional coordinate data defining a three dimensional representation of a selected structure internal to a patient. *White, col. 3, ll. 20-24.* The coordinate data is provided in a format compatible with a machine-controlled sculpting tool device. *White, col. 3, ll. 28-31.* A corporeal model of an internal bodily structure is then formed from a workpiece of suitable material by operating the machine controlled sculpting tool device in accordance with the coordinate data. *White, col. 3, ll. 31-38.* Nowhere does White disclose donor bone. More particularly, nowhere does White disclose "assessing [a] donor bone's suitability for fabrication into a given implant configuration based on measured parameters," as recited in claim 1, nor "determining [a] donor bone's suitability for implant geometries," as recited in claim 14.

Accordingly, the applicants respectfully submit that White does not disclose each of the elements of claims 1 and 14. Reconsideration and withdrawal of the rejections are requested.

Claim 32 recites a method of formulating a bone implant cutting plan. The method comprises, in part, "assessing the three-dimensional morphometric measurements of a donor bone."

White does not disclose each of the limitations of claim 32. As discussed above, White discloses a method of constructing three dimensional corporeal models of structures internal to bodies. *White, col. 1, ll. 7-9.* As also discussed above, the method of White involves the use of a tomographic device to derive three dimensional data defining a three dimensional representation of a selected structure internal to a patient. *White, col. 3, ll. 20-24.* A corporeal model of an internal bodily structure is then formed from a workpiece of suitable material by operating a machine controlled sculpting tool device in accordance with the three dimensional data. *White, col. 3, ll. 31-38.* Nowhere does White disclose a donor bone. More particularly, nowhere does White disclose "assessing the three-dimensional morphometric measurements of a donor bone," as recited in claim 32.

Accordingly, the applicants respectfully submit that White does not disclose each of the elements of claim 32. Reconsideration and withdrawal of the rejections are requested.

Independent Claim 24 is not Anticipated by Uchiyama

Claims 24-29 are rejected under 35 U.S.C. § 102(b) as being anticipated by A Morphometric Comparison of Trabecular Structure of Human Ilium Between Microcomputed Tomography and Conventional Histomorphometry/Calcified Tissue International/Volume 61, Number 6/December, 1997 ("Uchiyama"). This rejection is traversed at least for the following reasons.

Claim 24 recites "a process for evaluating donor bone suitability for implant preparation comprising non-destructively assessing cortical thickness at one or more pre-selected sites of the donor bone."

Uchiyama does not disclose each of the elements of claim 24. Uchiyama discloses a tool for imaging and nondestructively quantifying the microarchitecture of trabecular bone in unprocessed surgical bone biopsy specimens. *Uchiyama, Abstract.* Such a tool is useful for treating patients with various metabolic bone diseases, such as osteoporosis. *Uchiyama, pg. 493.* Nowhere does Uchiyama disclose donor bone. More particularly, nowhere does Uchiyama disclose "a process for evaluating donor bone suitability for implant preparation comprising non-

destructively assessing cortical thickness at one or more pre-selected sites of the donor bone," as recited in claim 24.

Accordingly, the applicants respectfully assert that Uchiyama does not disclose each of the elements of claim 24. Reconsideration and withdrawal of the rejection are requested.

Claims Depending from Claims 1, 14, 24, and 32 are Patentable

Because claims 2-13, 15-23, 25-31, and 33-36 depend directly or indirectly from claim 1, 14, or 32 and incorporate all the limitations thereof, the preceding remarks obviate the bases for the rejection of the dependent claims under §102. Reconsideration and withdrawal of the rejections are thus respectfully requested.

CONCLUSION

This application now stands in allowable form and reconsideration and allowance are respectfully requested.

This response is being submitted on or before November 8, 2007, making this a timely response. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

Respectfully submitted,

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